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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



Applicant: Gray et al.

Title: Surgical Device with Malleable Shaft

Appl. No.: 09/432,523

Filing Date: 3 November 1999

Examiner: David J. Isabella

Art Unit: 3627



**CERTIFICATE OF MAILING**  
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.

Kimberly C. Luna  
(Printed Name)

Kimberly C. Luna  
(Signature)

May 20, 2004  
(Date of Deposit)

**RESPONSE TO OFFICE ACTION**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

In response to the Office Action 13 March 2004, please consider the following remarks:

**REMARKS**

In the Office Action of 13 March 2004, claims 37, 38, and 42 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,626,607 to *Malecki et al.*; claim 39 was rejected under 35 U.S.C. § 103 as being obvious in view of U.S. Patent No. 5,626,607 to *Malecki et al.* in view of U.S. Patent No. 6,212,426 to *Swanson*. These rejections are respectfully traversed.

The present invention relates to a surgical device having a tissue engaging portion, a shaft member, and a handle assembly. The tissue engaging portion includes first and second opposed jaws for grasping, securing, and occluding body tissue and conduits. The shaft member is operatively coupled to the tissue engaging portion and is malleable. The handle assembly is operatively coupled to both the shaft member and to the tissue engaging portion. The shaft member of the present invention allows the surgeon to bend and adjust the shape of the surgical device to minimize its intrusion and to allow for proper positioning in predetermined body locations.